

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 389/PAT/2024
Assessment Year: 2017-18**

Md. Iftakhar Alam (Appellant)	Vs.	ITO, Ward-3(1), Purnia (Respondent)
PAN: BVWPA3649F		

Appearances:

Assessee represented by : Prason Kr. Adv.

Department represented by : Rajat Datta, CIT(DR).

Date of concluding the hearing : 16-September-2025

Date of pronouncing the order : 09-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 12.03.2024, which has been passed against the assessment order u/s 147 r.w.s. 144B of the Act, dated 24.03.2023.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. For that on the facts and circumstances of the case Appellate authority ignored the facts in spite of available evidences and documents submitted by assessee along with reply petition under section 250 of Income Tax Act 1961 and passed impugned an order on 12.03.2024 confirming addition of



Rs.23,01,901 subject to verify the claim of assessee that only Rs.13,42,000 has only been deposited on behalf of the several accounts holders during the period of demonetization.

2. For that on the facts and circumstances of the case whatever amount was deposited during the subject period in the A/c No-3518266893 categorically opened in the name of assessee called " OD TO BUSINESS CORRESPONDENT" is being maintained in the Central Bank of India, Gerki, Araria, Bihar, Pin-854311, in fact assessee work was to collect the amount from account holders and with a prepared list every time were deposited the same amount as per list of holders which was name wise, account wise and amount thereof which were ever below than Rs 50,000/each in the said lists during the marked period of demonetization and process of withdrawal is on the same system for that assessee maintains a register.

3. For that the Appellate authority has neither applied his judicial mind nor verified the facts submitted by assessee along with the relevant documents like, his appointment proof which determine his status, Bank account and certificate issued in the name of assessee by Central Bank of India extra

4. For that on the facts and in circumstances of the case the assessee's status is BANK MITRA under Hon'ble Prime Minister Scheme on a mass scale Bank Accounts were opened with a specific view at zero balance and to facilitate such accounts persons were appointed to operate such accounts holders called Field Business Correspondence who also known as Bank Mitra.

5. For that on the facts and in circumstances of the under said scheme stated above Central Bank of India a corporate body M/ S Synapse Solutions Pvt Ltd has selected the assessee namely Md Iftakhar Alam to work for as Field Business correspondent know as Bank Mitra.

6. For that on the facts and in the circumstances of the ease the said Bank Mitra, the assessee gets commission for discharging his work and base on the criteria mutually agreed TDS is being deducted u/s 194H of the Income Tax Act 1961 further an accumulated commission of Rs.76,569 only has been received by assessee during the financial year 2016-17 relevant to it's AY 2017-18.

7. For that on the facts and circumstances of the case the deposits made during the period of demonetization i.e. Rs 13,42,000 as per assessee's bank statement or 23,01,901 wrongly taken by the AO having no legal leg to come under preview of Section 69A of the Income Tax Act 1961.



8. *That on the facts and in the circumstances discussed above your honor be pleased to adjudicate the subjects case to delete the entire addition under provision of law and facts remained with this case.*

9. *For that the appellant craves leave to add, alter, modify, vary, delete any ground of appeal before or at the time of hearing, if necessary.”*

3. Brief facts of the case are that on the basis of information available the assessee was found to be maintaining current account with Central Bank of India which was debited for ₹2,99,58,022/- but the assessee did not file the return of income. The Assessing Officer (hereinafter referred to as Ld. 'AO') issued a notices u/s 142(1) and 143(2) of the Act to which either no response was made or part response was made. The case was reopened by issuing notice u/s 148 of the Act. The assessee did not file the return of income u/s 142(1) of the Act but filed the same in response to the notice u/s 148 of the Act declaring total income at ₹92,520/-. The Ld. AO required the assessee to furnish certain details during the course of the assessment proceedings. The assessee filed the details and stated that he was working as a Field Business Correspondent on behalf of Central Bank of India commonly known as 'Bank Mitra' under Synapse Solutions Pvt. Ltd. which itself was a Business Correspondent. It was stated that the current bank account number 3518266893 belonged to the Central Bank of India which had allowed the assessee to function as a Bank Mitra to deposit cash from the bank customers and withdraw cash for making payments to the bank customers living within the area assigned to him. A copy of the certificate issued by the Central Bank of India was also attached. The Ld. AO assessed the total income of the assessee at ₹92,520/- u/s 147 r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A). A perusal of the records shows that while the order of the Ld. CIT(A) u/s 250(4) of the Act is in



respect of the order dated 28.06.2019 made u/s 144 of the Act in which the total income has been assessed at ₹23,01,901/-; however, the assessee has also enclosed a copy of the order u/s 147 r.w.s. 144B of the Act dated 24.03.2023 for the subsequent assessment year in which the return of income has been accepted and the reason for scrutiny was the assessee being a non-filer and had made cash deposit of ₹2,99,58,022/- in the bank account.

4. Brief facts of the case are that the assessee was working as Field Business Correspondent, Village-Kishanpur, Dist.-Araria for which he got commission which was varying from month to month. The assessee opens an account of the villagers and receives cash from them and whenever they required money, the same is given out of the deposits made earlier. Thus, the assessee was working like a mini bank for the villagers. During the period of demonetization (incorrectly mentioned as 08.11.2019 and 31.12.2019 instead of from 08.11.2016 to 31.12.2016 in the order of the Ld. CIT(A) in para 2.2), the assessee received cash from the villagers which was deposited in the Central Bank of India and total cash of ₹13,42,000/- was claimed to be deposited and not ₹23,01,901/- as stated by the Ld. AO as is stated. A sum of ₹76,569/- was received as commission income for which the return was not filed as the same did not exceed the maximum amount not chargeable to tax. The Ld. AO made the assessment u/s 144 of the Act and added the deposits in the bank account and the return of income was not filed for the year under consideration and for the earlier years, as no compliance was made to the statutory notices issued. The assessment was accordingly made u/s 144 of the Act at ₹23,01,901/-. The Ld. CIT(A) considered the delay in filing the appeal and condoned the same. However, before the Ld. CIT(A) and as is mentioned in para 6.4 of the



appeal order, the assessee failed to submit any cogent evidence that the money deposited belonged to the third party and not to him. It is mentioned by the Ld. CIT(A) that the Government did not allow any agent or authorized person like the assessee to collect and deposit the SBN on behalf of the third party. However, in para 6.5 the Ld. CIT(A), for the sake of principle of natural justice, directed the Ld. AO to verify the claim of the assessee and allow the same accordingly if the same found to be correct and the ground of appeal is partly allowed.

5. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

6. Rival contentions were heard and the submissions made have been examined. The Ld. AR requested that the matter may be remanded to the Ld. AO. The Ld. CIT DR submitted that there is no power available before the Ld. CIT(A) to set aside the case.

7. We have heard the rival submission. As is evident from the order, the Ld. CIT(A) exceeded his power to remand the case to the Ld. AO for verification which is tantamount to setting aside the case and which power is no longer available with the Ld. CIT(A) with effect from 01.06.2001. However, since the same is available with effect from 01.10.2024 in respect of the assessment made u/s 144 of the Act but on the date of the appeal order i.e. 12.03.2014, the Ld. CIT(A) had exceeded his jurisdiction, by showing direction to the Ld. AO which amounts to setting aside the case and is not in accordance with law. However, we may also add that since the assessee could not make proper submission before the Ld. AO and in the subsequent AY 2018-19 no such addition was made even though the assessment was reopened u/s 147 of the Act and the return of income filed in response



to the notice u/s 148 of the Act was accepted, therefore, since the facts are identical, the orders of the Ld. CIT(A) as well as the Ld. AO are hereby set aside and the case is remitted back to the Ld. AO for making the reassessment *de novo*. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments. Accordingly, the grounds taken by the assessee in his appeal are allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 9th October, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 09.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Md. Iftakhar Alam, Vill.-Chirah, P.O.-Chirah Hat, Araria, Bihar, 844311.**
2. **ITO, Ward-3(1), Purnia.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata